

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:11CR37
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
GREGORY WALKER,)	
)	
Defendant.)	

The Court has received the Modified Presentence Investigation Report ("PSR") and the Defendant's objections thereto (Filing No. 43). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The parties reached a plea agreement under Federal Rule of Criminal Procedure 11(c)(1)(C) that, among other things, U.S.S.G. § 2X5.2 applies and the base offense level is 6. The PSR applied U.S.S.G. § 2A3.2 with a base offense level of 18. According to the Addendum to the PSR, the government initially objected to ¶¶ 14, 19 and 21, which relate to the application of § 2A3.2. The government did not file its objections with the Court. The Defendant objects to ¶¶ 12, 14 and 19. Paragraphs 14 and 19 relate to the application of § 2A3.2 and ¶ 12 includes details surrounding the offense.

The Court's tentative findings are that the objection to ¶ 12 is denied,¹ and the Defendant's objections to ¶¶ 14 and 19 will be heard at sentencing.

¹The Court is not indicating its ruling on the remaining objections by denying the objections to ¶ 12.

IT IS ORDERED:

1. The Defendant's objections to ¶ 12 of the PSR are denied;
2. The Defendant's objections to ¶¶ 14 and 19 will be heard at sentencing;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 15th day of November, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge